

2007 DRAFTING REQUEST

Bill

Received: **10/12/2006**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Dick Sweet**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters: **rnelson2**

Subject: **Military Affairs - nat'l guard**

Extra Copies:

Submit via email: **YES**

Requester's email: **Pam.Shannon@legis.wisconsin.gov**

Carbon copy (CC:) to: **richard.sweet@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Recodification of Chapter 21, military affairs

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
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| /P3 | | csicilia 05/02/2007 | jfrantze 05/02/2007 | _____ | cduerst 05/02/2007 | | |
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*for
Assembly*

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For X Assembly

9/13/08

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0517/P1
RPN:....pg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 21.015 (title), 21.19 (3) (b), 21.21, 21.25, 21.26 (title), 21.32
2 (title), 21.33 (title), 21.35 (title), 21.62 and 21.70 (title); *to renumber* 21.01,
3 21.03, 21.04, 21.18 (title), (1) (intro.) and (a) to (k), 21.18 (1m), 21.18 (3), 21.18
4 (4), 21.19 (4), 21.19 (11), 21.19 (13), 21.19 (14), 21.28, 21.32, 21.36 (2), 21.37,
5 21.51 and 21.52; *to renumber and amend* 21.015 (intro.), (1), and (2), 21.18
6 (2), 21.18 (5), 21.19 (1), 21.19 (2), 21.19 (3) (a), 21.19 (5), 21.19 (6), 21.19 (7),
7 21.19 (8), 21.19 (9), 21.19 (10), 21.19 (12), 21.20, 21.30 (title), 21.30, 21.33,
8 21.35, 21.36 (1), 21.54 and 21.70 (1) and (2); *to consolidate, renumber and*
9 *amend* 21.26 (1) and (2); and *to create* subchapter I of chapter 21 [precedes
10 21.01], 21.01, 21.02, 21.03 (title), 21.03 (1) (d), 21.04, subchapter II of chapter
11 21 [precedes 21.10], 21.10 (1) (e), subchapter III of chapter 21 [precedes 21.20],
12 subchapter IV of chapter 21 [precedes 21.40], subchapter V of chapter 21
13 [precedes 21.60] and subchapter VI of chapter 21 [precedes 21.70] of the
14 statutes; **relating to:** powers and duties of the department of military affairs,
15 military officers, military property and assets, the national guard and state

- 1 defense force, rights of service personnel, and the Wisconsin code of military
2 justice.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the drafting subcommittee of the joint legislative council's special committee on recodification of ch. 21, military affairs. The special committee was directed to conduct a recodification of ch. 21, relating to military affairs, to include reorganizing the chapter in a logical manner, renumbering and retitling sections, consolidating related provisions, modernizing language, resolving ambiguities in language, making other necessary organizational changes, and making minor substantive changes.

Under the draft, ch. 21 will be reorganized as follows:

Subchapter I

General Provisions

21.01Definitions.21.02Powers and duties of the governor.21.03Powers and duties of the department21.04Powers and duties of the adjutant general.21.05Civil service status.

Subchapter II

Military Officers

21.10Military staff of the governor.21.11United States property and fiscal officer.21.12Chief surgeons.21.13Discharge of officers.21.14Authority to administer oaths.21.15Resignation of officer.

Subchapter IV

Property and Assets

Subchapter IV

National Guard and State Defense Force

Subchapter V

Rights of Service Personnel

Subchapter VI

Wisconsin Code of Military Justice

1
2 **SECTION 1.** Subchapter I of chapter 21 [precedes 21.01] of the statutes is created
3 to read:

CHAPTER 21**SUBCHAPTER I****GENERAL PROVISIONS**

7 **SECTION 2.** 21.01 of the statutes is renumbered ____.

8 **SECTION 3.** 21.01 of the statutes is created to read:

9 **21.01 Definitions.** In this chapter:

10 (1) "Department" means the department of military affairs.

11 (2) "Wisconsin code of military justice" means subch. VI of this chapter.

12 **SECTION 4.** 21.015 (title) of the statutes is repealed.

13 **SECTION 5.** 21.015 (intro.), (1), and (2) of the statutes are renumbered 21.03 (1)
14 (intro.), (a), and (b) and 21.03 (1) (a) (intro.), as renumbered, is amended to read:

15 21.03 (1) DEPARTMENT DUTIES. (a) (intro.) The department of ~~military affairs~~
16 shall do all of the following:

17 **SECTION 6.** 21.02 of the statutes is created to read:

18 **21.02 Powers and duties of the governor.** (1) In addition to the powers and
19 duties of the governor under s. 166.03 (1):

20 **SECTION 7.** 21.03 of the statutes is renumbered 21.____.

21 **SECTION 8.** 21.03 (title) of the statutes is created to read:

22 **21.03 (title) Powers and duties of the department.**

SECTION 9. 21.03 (1) (d) of the statutes is created to read:

21.03 (1) (d) Shall serve on and provide assistance to the council on military and state relations under s. 14.017 (4).

SECTION 10. 21.04 of the statutes is renumbered 21.____.

SECTION 11. 21.04 of the statutes is created to read:

21.04 Powers and duties of the adjutant general. In addition to the powers and duties of the adjutant general under s. 166.03 (2):

SECTION 12. Subchapter II of chapter 21 [precedes 21.10] of the statutes is created to read:

CHAPTER 21

SUBCHAPTER II

MILITARY OFFICERS

SECTION 13. 21.10 (1) (e) of the statutes is created to read:

21.10 (1) (e) A joint chief of staff who may be a general officer.

SECTION 14. 21.18 (title), (1) (intro.) and (a) to (k) of the statutes are renumbered 21.10 (title), (1) (intro.), (a) to (d), and (f) to (L).

SECTION 15. 21.18 (1m) of the statutes is renumbered 21.10 (3).

SECTION 16. 21.18 (2) of the statutes is renumbered 21.10 (4) and amended to read:

21.10 (4) No person may be appointed on the governor's military staff who has not had previous military experience.

SECTION 17. 21.18 (3) of the statutes is renumbered 21.10 (5).

SECTION 18. 21.18 (4) of the statutes is renumbered 21.10 (6).

SECTION 19. 21.18 (5) of the statutes is renumbered 21.10 (7) and amended to read:

1 21.10 (7) The adjutant general shall appoint persons to fill vacancies in
2 positions in the military staff of the governor under sub. (1) (b) to (L). Vacancies on
3 the military staff of the governor shall be filled by appointment from officers actively
4 serving in the national guard, except as provided in s. 15.31. Interim vacancies shall
5 be filled by appointment by the adjutant general for the residue of the unexpired
6 term.

7 **SECTION 20.** 21.19 (1) of the statutes is renumbered 21.04 (1) and amended to
8 read:

9 21.04 (1) The adjutant general shall be the military chief of staff to the
10 governor. The adjutant general shall have the custody of all property, military
11 records, correspondence and other documents relating to the national guard and any
12 other military forces organized under the laws of this state. The adjutant general
13 may appoint an assistant ~~quartermaster general~~ to issue and account for state
14 property. The adjutant general shall ~~be the medium of~~ transmit military
15 correspondence ~~with~~ to and from the governor and perform all other duties
16 pertaining to the office or prescribed by law, including the preparation and
17 submission to the governor of reports under s. 15.04 (1) (d).

18 **SECTION 21.** 21.19 (2) of the statutes is renumbered 21.03 (2) and amended to
19 read:

20 21.03 (2) DEPARTMENT POWERS. The department of ~~military affairs on~~ may do
21 any of the following:

22 (a) On behalf of the state ~~may~~, rent to appropriate organizations or individuals
23 state-owned lands, buildings, and facilities used by, acquired for, or erected for the
24 national guard when not required for use by the national guard. ~~Such~~ The rental

1 shall not be effective unless in writing and approved by the governor and the
2 adjutant general or a designee in writing.

3 **SECTION 22.** 21.19 (3) (a) of the statutes is renumbered 21.03 (2) (b) and
4 amended to read:

5 21.03 (2) (b) ~~The department of military affairs on~~ On behalf of the state, upon
6 appraisal by the state chief engineer submitted to the governor in writing, ~~may~~ sell
7 and convey upon such terms as the department of military affairs may determine,
8 with the approval of the governor in writing, any state-owned property acquired or
9 erected for state military purposes, ~~which if the~~ if the property is no longer useful to the
10 national guard.

11 **SECTION 23.** 21.19 (3) (b) of the statutes is repealed.

12 **SECTION 24.** 21.19 (4) of the statutes is renumbered 21.04 (3).

13 **SECTION 25.** 21.19 (5) of the statutes is renumbered 21.10 (2) and amended to
14 read:

15 21.10 (2) In the absence or incapacity of the adjutant general, the senior
16 ranking deputy adjutant general for army or air shall have all the powers and duties
17 of the adjutant general.

18 **SECTION 26.** 21.19 (6) of the statutes is renumbered 21.04 (4) and amended to
19 read:

20 21.04 (4) The adjutant general ~~as quartermaster general~~ shall also be chief of
21 all logistical services.

22 **SECTION 27.** 21.19 (7) of the statutes is renumbered 21.04 (5) and 21.04 (5) (a)
23 (intro.) and (b), are renumbered and amended to read:

24 21.04 (5) (a) The adjutant general ~~as quartermaster general~~ shall do all of the
25 following:

1 (b) The transportation of all troops, arms, ~~accoutrements, stores~~ supplies, and
2 other property and the preparation for ~~encampments~~ training shall be ~~contracted for~~
3 undertaken by the adjutant general under direction of the governor.

4 **SECTION 28.** 21.19 (8) of the statutes is renumbered 21.04 (6) and amended to
5 read:

6 21.04 (6) The adjutant general or a designee shall issue all necessary supplies,
7 quarters, and meals to members and units of the national guard on state active duty
8 and may contract for the purchase and transportation of ~~such supplies~~, subject to s.
9 16.71 (1).

10 **SECTION 29.** 21.19 (9) of the statutes is renumbered 21.04 (7) and amended to
11 read:

12 21.04 (7) When any military property belonging to the state as owner or bailee
13 is wrongfully held by another person, the adjutant general may bring an action in
14 the name of the state to recover possession of the ~~same~~ property or the money value
15 thereof of the property.

16 **SECTION 30.** 21.19 (10) of the statutes is renumbered 21.04 (8) and amended
17 to read:

18 21.04 (8) The adjutant general may, upon receipt of meritorious requests for
19 state ~~service~~ flags ~~for public use~~ and within the limits of the appropriation made
20 under s. 20.465 (1) (e), furnish ~~such~~ the flags without charge to the persons or
21 organizations requesting them.

22 **SECTION 31.** 21.19 (11) of the statutes is renumbered 21.04 (9).

23 **SECTION 32.** 21.19 (12) of the statutes is renumbered 21.04 (10) and amended
24 to read:

21.04 (10) The adjutant general shall provide from the appropriation under s. 20.465 (1) (c) a United States flag or state flag to the next of kin of each deceased member of the national guard who dies as a result of state service under s. 21.11.

SECTION 33. 21.19 (13) of the statutes is renumbered 21.04 (11).

SECTION 34. 21.19 (14) of the statutes is renumbered 21.04 (12).

SECTION 35. Subchapter III of chapter 21 [precedes 21.20] of the statutes is created to read:

CHAPTER 21

SUBCHAPTER III

PROPERTY AND ASSETS

SECTION 36. 21.20 of the statutes is renumbered 21.05 and amended to read:

21.05 Civil service status. All full-time state-paid employees of the department of ~~military affairs~~ shall be under the classified service, except the adjutant general, the executive assistant to the adjutant general, the deputy adjutants general for army and air and the administrator of the division of emergency management.

SECTION 37. 21.21 of the statutes is repealed.

SECTION 38. 21.25 of the statutes is repealed.

SECTION 39. 21.26 (title) of the statutes is repealed.

SECTION 40. 21.26 (1) and (2) of the statutes are consolidated, renumbered 21.03 (1) (c) and amended to read:

21.03 (1) (c) ~~The department of military affairs shall~~ Shall administer the Youth Challenge Academy program for disadvantaged youth under 32 USC 509. The department shall determine eligibility criteria for the Challenge Academy consistent

1 with federal law. (2) Annually, the department of military affairs shall do all of the
2 following:

3 (a) Calculate 40% the state share of the average cost per pupil attending the
4 ~~Youth Challenge program~~ Academy and report this information to the department
5 of public instruction.

6 (b) Notwithstanding s. 118.125, report to each school district in which a pupil
7 attending the program resides the pupil's name and the name and address of the
8 pupil's custodial parent or guardian.

9 **SECTION 41.** 21.28 of the statutes is renumbered 21.11.

10 **SECTION 42.** 21.30 (title) of the statutes is renumbered 21.12 (title) and
11 amended to read:

12 **21.12 (title) Chief surgeons; powers and duties.**

13 **SECTION 43.** 21.30 of the statutes is renumbered 21.12 (1) and amended to read:

14 **21.12 (1)** The chief surgeons for army and air shall, under direction of the
15 adjutant general, have general supervision of the medical units of the national guard
16 and state defense force when organized. The chief surgeons shall make
17 recommendations concerning procurement of medical supplies for state active duty
18 operations, for the procurement and training of medical personnel and for the
19 publication of national guard directives on medical subjects. ~~The chief surgeons~~
20 ~~shall submit an annual report of the affairs and expenses of their departments to the~~
21 ~~adjutant general.~~

22 **SECTION 44.** 21.32 (title) of the statutes is repealed.

23 **SECTION 45.** 21.32 of the statutes is renumbered 21.12 (2).

24 **SECTION 46.** 21.33 (title) of the statutes is repealed.

1 **SECTION 47.** 21.33 of the statutes is renumbered 21.04 (13) and amended to
2 read:

3 **21.04 (13)** ~~The quartermaster general acting as paymaster~~ adjutant general,
4 under orders from the governor, may draw from the state treasury the money
5 necessary for paying troops in camp or on state active service duty, and shall furnish
6 ~~such the security for the same as~~ money that the secretary of administration may
7 ~~direct~~ requires. The amount due on account of the field, staff, or other officers,
8 noncommissioned staff and band, company, or enlistees, not herein enumerated, if
9 any, shall be paid to the person to whom the ~~same~~ money shall be due, on the properly
10 signed and certified payrolls.

11 **SECTION 48.** 21.35 (title) of the statutes is repealed.

12 **SECTION 49.** 21.35 of the statutes is renumbered 21.__ and amended to read:

13 **21.35** ~~The organization, armament, equipment, and discipline of the national~~
14 ~~guard shall be that prescribed by federal laws or regulations; and the governor may~~
15 ~~by order perfect such organization, armament, equipment, and discipline, at any~~
16 ~~time, so as to comply with such laws and regulations insofar as they are consistent~~
17 ~~with the Wisconsin code of military justice. Notwithstanding any rule or regulation~~
18 ~~prescribed by the federal government or any officer or department thereof~~ of the
19 federal government, no person, otherwise qualified, may be denied membership in
20 the national guard because of sex, color, race, creed, or sexual orientation and no
21 member of the national guard may be segregated within the national guard on the
22 basis of sex, color, race, creed, or sexual orientation. Nothing in this section prohibits
23 separate facilities for persons of different sexes with regard to dormitory
24 accommodations, public toilets, showers, saunas, and dressing rooms.

25 **SECTION 50.** 21.36 (1) of the statutes is renumbered 21.__ and amended to read:

21.36 (1) The rules of discipline and the regulations of the armed forces of the U.S. shall, so far as the same are applicable, constitute the rules of discipline and the regulations of the national guard; the rules and uniform code of military justice established by congress and the department of defense for the armed forces shall be adopted so far as they are applicable and consistent with the Wisconsin code of military justice for the government of the national guard, and the system of instruction and the drill regulations prescribed for the different arms and corps of the armed forces of the U.S. shall be followed in the military instruction and practice of the national guard, and the use of any other system is forbidden. The organization, armament, equipment, and discipline of the national guard shall be that prescribed by federal laws or regulations; and the governor may by order perfect the organization, armament, equipment, and discipline, at any time, so as to comply with the laws and regulations insofar as they are consistent with the Wisconsin code of military justice.

SECTION 51. 21.36 (2) of the statutes is renumbered 21.02 (2).

SECTION 52. 21.37 of the statutes is renumbered 21.70.

SECTION 53. Subchapter IV of chapter 21 [precedes 21.40] of the statutes is created to read:

CHAPTER 21

SUBCHAPTER IV

NATIONAL GUARD AND

STATE DEFENSE FORCE

SECTION 54. 21.51 of the statutes is renumbered 21.13.

SECTION 55. 21.52 of the statutes is renumbered 21.14.

SECTION 56. 21.54 of the statutes is renumbered 21.15 and amended to read:

1 **21.15 Resignation of officer.** A commissioned officer may resign the officer's
2 commission to the officer's immediate commanding officer, in writing, who shall
3 promptly forward the same resignation through military channels to the adjutant
4 general. The governor shall, by order, accept or reject the same resignation, and, if
5 accepted, fix the date of its taking effect. No resignation shall take effect except as
6 so ordered.

7 **SECTION 57.** Subchapter V of chapter 21 [precedes 21.60] of the statutes, is
8 created to readchapter 21

9 **CHAPTER 21**

10 **SUBCHAPTER V**

11 **RIGHTS OF SERVICE PERSONNEL**

12 **SECTION 58.** 21.62 of the statutes is repealed.

13 **SECTION 59.** Subchapter VI of chapter 21 [precedes 21.70] of the statutes is
14 created to read:

15 **CHAPTER 21**

16 **SUBCHAPTER VI**

17 **WISCONSIN CODE OF MILITARY JUSTICE**

18 **SECTION 60.** 21.70 (title) of the statutes is repealed.

19 **SECTION 61.** 21.70 (1) and (2) of the statutes are renumbered 21.02 (1) (a) and
20 (b) and amended to read:

21 21.02 (1) (a) The governor may request volunteers of the national guard to
22 provide assistance to federal, state and local law enforcement officers, within or
23 outside the boundaries of this state, in drug interdiction and counter-drug activities
24 under 32 USC 112. These activities may include the operation and maintenance of
25 equipment and facilities. The governor may order, with their consent, any national

1 guard members who volunteer under this section to duty in federally funded status.
2 The governor may delegate his or her authority under this section to the adjutant
3 general. The adjutant general shall follow all laws and regulations of the U.S.
4 department of defense when ordering national guard members to perform drug
5 interdiction and counter-drug activities under this section subsection.

6 (b) A national guard member assisting in drug interdiction and counter-drug
7 activities under this section subsection shall ~~obey and execute~~ _____ the
8 instructions of a law enforcement officer involved in these activities given to the
9 national guard member through the military chain of command.

10 (END)